

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CYNTHIA RENEE KELLY,

Plaintiff,

v.

CUBESMART, et al.,

Defendants.

Case No. [22-cv-05470-HSG](#)

**ORDER DENYING PLAINTIFF'S
REQUEST TO REASSIGN CASE**

Re: Dkt. No. 51

Plaintiff, proceeding *pro se*, responded to the Court's order at Dkt. No. 46 and requested that the case be reassigned to another judge in the Northern District of California. *See* Dkt. No. 51. The Court **DENIES** the request.

"[I]n the absence of a legitimate reason to recuse himself, a judge should participate in cases assigned." *United States v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008). Plaintiff asserts, based entirely on the Court's legal rulings, that the undersigned "inflict[ed] extreme prejudice with the 'intent to cause harm'" and "violat[ed] Plaintiff's constitutional rights." Dkt. No. 51 at 1. Judicial rulings absolutely may be raised in any eventual appeal, but are not a valid basis for a motion for recusal. *See Holland*, 519 F.3d at 913–14 (citing *Liteky v. United States*, 510 U.S. 540, 555–56 (1994)); *see also Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir. 1984) ("A judge's previous adverse ruling alone is not sufficient bias."); *McCoy v. Stronach*, No. 112CV000983AWISABPC, 2021 WL 147989, at *1–2 (E.D. Cal. Jan. 15, 2021) (denying plaintiff's motion for disqualification based on adverse ruling on motion).


The Court has not yet issued a ruling on the two pending motions to dismiss, or issued any substantive orders of any kind in this case. *See* Dkt. Nos. 27, 33. The Court emphasizes that Plaintiff continues to have the opportunity to file an opposition to the pending second motion to

1 dismiss at Dkt. No. 33. As the Court explained in its text order on January 19, 2023, Plaintiff has
2 until February 2, 2023. *See* Dkt. No. 46. The Court encourages Plaintiff to file an opposition that
3 responds to the substance of Defendants' motion. If Plaintiff does not file an opposition, the Court
4 will construe this filing, Dkt. No 51, as her opposition. As before, Defendants may file a reply by
5 February 9, 2023.

6 The Court advises Plaintiff that the Legal Help Center provides free information and
7 limited-scope legal advice to pro se litigants in civil cases. The center can provide information,
8 advice, and basic legal help but cannot represent litigants as their lawyer. Services are provided
9 by appointment only. An appointment may be scheduled by calling (415) 782-8982 or emailing
10 fedpro@sfbar.org.

11 **IT IS SO ORDERED.**

12 Dated: 1/27/2023

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14 HAYWOOD S. GILLIAM, JR.
15 United States District Judge
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